UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/565,816
Filing Date: January 24, 2006
Appellant(s): LEMMERS, JOHANNES HENDRIKUS

_____
Thomas H. Ham
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed 30 March 2009 appealing from the Office

action mailed 30 October 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Peng et al., "Digital Television Application Manager" 2001 IEEE International

Conference on Multimedia and Expo, pp. 685-688, published 2001.

7216170	Ludvig et al.	5-2002
20030217369	Heredia	5-2002
20020010924	Kalhour	1-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peng

et al., "Digital Television Application Manager"., *2001 IEEE International Conference on*

Multimedia and Expo Pg. 685 – 688, in view of Ludvig et al., US Patent No 7,216,170.

As to claim 1 Peng et al. disclose a method, for a receiver adapted for receiving broadcasted signal from a broadcaster, of handling the execution of a first independent feature (Section 2.2, Table 1), where at least a part of feature data, needed to execute said first independent feature, is comprised in said broadcasted signal as data relating to a first Xlet (Table 1 – the AIT, which is contained in a broadcast signal, is data relating to an Xlet, and is needed to execute the applications), and wherein said feature data are broadcasted as data carousels (Section 1, paragraph 2), the method comprising the steps of:

receiving instructions identifying said first feature, wherein the instructions further comprise an identification that the identified first feature is to be executed (Section 2.1 – 2.2 – AIT, which is sent in the transport stream, contains signaling information, which is used for managing an Xlet application. See *Application_control_code* in the AIT);

loading, from at least one of the data carousels, the feature data related to said first feature into memory of said receiver (Section 1, paragraph 7; Section 3.1),

executing said identified feature (Section 2.2, Section 3.1).

Peng et al. fail to disclose that said data relating to said first Xlet further comprise feature data needed to execute at least a second independent feature; and that the feature data related to said first feature and said second feature being a part of said first Xlet.

However, in an analogous art, Ludvig et al. disclose an AIT which contains data necessary to execute a plurality of applets (col. 13 line 66 – col. 14 line 32; Fig. 3: 304).

In the combined system of Peng and Ludvig, the AIT (i.e. feature data related to said first feature and said second feature – Ludvig col. 13 line 66 – col. 14 line 32) is a part of the first Xlet (Peng Section 1 Paragraph 6 - the AIT is necessary for the first Xlet to be run, therefore it is a part of the first Xlet).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Ludvig et al. and Peng et al. The rationale for this combination would have been to have a single, central AIT that pertains to all applications, rather than having to download a new AIT for each separate application. This would make updating and debugging of the AIT faster and easier for the broadcaster.

As to claim 2 Peng et al. disclose mounting the data carousel comprising the feature data needed to execute said first independent feature (Sections 4.2-4.3 – the file structure contained in the carousel is obtained, therefore the carousel has been mounted), and creating a class loader being dedicated to said first feature (Section 4.3).

As to claim 3 Peng et al. disclose receiving instructions identifying a feature, wherein the instructions further comprise an identification that the identified feature is to be terminated (Sections 2.1, 2.2 – AIT contains application control instructions, which are used to execute and terminate applications), terminating said feature (Fig. 2), and removing the feature data, related to said identified feature, from memory of said receiver (Section 4 paragraph 3; Section 4.1).

As to claim 4 Peng et al. disclose unmounting the data carousel comprising the feature data needed to execute said first independent feature and removing it from the

memory, removing all references to the class loader being dedicated to said first feature

and removing it from the memory (Abstract; Sections 4, Paragraph 3; Sections 4.3 – 5 –

Peng et al. discloses that garbage collection occurs after quitting an application and that

classes are removed from STB memory upon termination. It would be readily apparent

to one of ordinary skill in the art that garbage collection would further entail removing

the file structures mounted from the carousel and removing references to class loader).

As to claim 5 Peng et al. disclose a method according to claim 1, wherein the

instructions identifying said first independent feature is received from the broadcaster

(Section 1 Paragraph 5).

As to claim 6 Peng et al. disclose a method according to claim 1, wherein the

instructions identifying said first independent feature is received from a user

communicating with the receiver (Section 1 Paragraph 5).

As to claim 7 Peng et al. fail to explicitly disclose that the receiver presents an

identification of at least a part of said broadcasted independent features to said user

and the instructions identifying said first independent feature is based on said

presentation. However, examiner takes official notice of the fact that it was well known

in the art at the time of the invention to use graphical user interfaces to give users the

option of choosing between a plurality of applications whose identity are presented to a

user, and that the instructions used to execute this application are given based upon the

user's selection.

It would have been obvious to one of ordinary skill in the art at the time of the

invention to use a GUI in the system disclosed by Peng et al. The rationale for this

combination would have been to present a user friendly interface from which

applications to be executed can be selected. All the claimed elements were known in

the prior art and one skilled in the art could have combined the elements as claimed by

known methods with no change in their respective functions, and the combination would

have yielded predictable results to one of ordinary skill in the art at the time of the

invention.

As to claim 8, see similar rejection of claim 1, where Ludvig et al. disclose that a

plurality of applications depend on the AIT (see Fig. 3). Therefore the method of claim 8

corresponds to the method of claim 1 as analyzed above.

As to claim 9 see similar rejection of claim 1. The receiver of claim 9

corresponds to the method of claim 1. Therefore, claim 9 has been analyzed and

rejected.

3.   Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peng

and Ludvig as applied to claim 1 above, and further in view of Heredia, US Pub No

2003/0217369.

As to claim 12 the combined system of Peng and Ludvig disclose a feature table

that comprises a feature name field (Peng Table 1: application_name_char) and a

startup class name field (Peng Table 1: Initial_class_byte)

The combined system of Peng and Ludvig fail to disclose a table which contains

a carousel identification field.

However, in an analogous art, Heredia discloses an Application Information

Table which contains a carousel identification field (Table 1: DIILOCATION field

contains a carousel identifier; claims 32-33).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the combined system of Peng and Ludvig with the teachings of

Heredia. The rationale for this modification would have been to identify the carousels

which contain data relevant to an application, in the case where application data is

spread over two or more carousels.

(10) Response to Argument

Appellant argues on pages 5-7 of the Appeal Brief that the combination of Peng

and Ludvig fail to disclose that "the feature data related to said first feature and said

second feature being part of said first Xlet." In the rejection of independent claims 1, 8

and 9, it was stated that since the AIT is necessary for the first Xlet to be run, it is part of

the first Xlet. Examiner wishes to stand by this statement. The Random House

Dictionary defines *part* to be "an essential or integral attribute or quality." It is clear from

the disclosure of Peng et al. (see pp. 685, Section 1, 6th Paragraph, for example) that

the AIT is an attribute that is essential to the Xlet; the Xlet cannot be executed without

the AIT. It follows then, by the dictionary definition of the word "part", that the AIT is part

of the Xlet. Therefore, the combination of Peng et al. and Ludvig disclose that "the

feature data [the AIT] related to said first feature and said second feature being part of

said first Xlet."

Appellant argues on page 6 of the Appeal Brief that "there is no mention of any Xlet or applets in the cited reference of Ludvig et al." Ludvig discloses an AIT that is used to reference applications contained within the transport stream (col. 13 line 66 – col. 14 line 8). While the applications are not specifically referred to as "Xlets" or as "applets", it is obvious that the disclosure of Ludvig et al. is in the same field of endeavor as Peng et al., as it deals with methods for using an AIT to reference applications contained in a transport stream.

Official notice was taken in the rejection of claim 7 and was not traversed by Appellant. In taking official notice it was stated by Examiner that it was well known in the art at the time of the invention to use graphical user interfaces to give users the option of choosing between a plurality of applications whose identity are presented to a user, and that the instructions used to execute this application are given based upon the user's selection.

Appellants failure to traverse Examiner's assertion of official notice has rendered the well-known in the art statement applied to claim 7 as admitted prior art. However, as further proof that this was well known in the art, Examiner cites Kalhour, US Pub No. 2002/0010924, [0030]-[0034] as an example of selectable graphical representation of downloaded applications in a television environment.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Robert Hance

Conferees:

/John W. Miller/

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